

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 10-2695

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IN RE: JAMES MURPHY, Petitioner

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On a Petition for Writ of Mandamus from the  
United States District Court for the Middle District of Pennsylvania  
(Related to Civ. No. 10-cv-01107)

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Submitted Pursuant to Rule 21, Fed. R. App. P.  
June 30, 2010

Before: MCKEE, Chief Judge, SCIRICA and WEIS, Circuit Judges

Filed: July 26, 2010

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OPINION

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PER CURIAM.

James Murphy petitions for a writ of mandamus directing the District Court to release him. For the reasons below, we will deny the petition.

In July 2009, Murphy was convicted of drug trafficking charges.<sup>1</sup> On May

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<sup>1</sup> On June 22, 2010, Murphy was sentenced to 360 months in prison and filed a pro se notice of appeal.

24, 2010, Murphy filed a habeas petition pursuant to 28 U.S.C. § 2241. The District Court dismissed the § 2241 petition by order entered May 27th, and Murphy filed a notice of appeal which was docketed at No. 10-2696. On June 9th, Murphy filed his mandamus petition in which he requested that we review the District Court's dismissal of his § 2241 petition.

A writ of mandamus should be issued only in extraordinary circumstances. See Sporck v. Peil, 759 F.2d 312, 314 (3d Cir. 1985). Determining whether an extraordinary circumstance exists requires a two-part inquiry. First, it must be established that there is no alternative remedy or other adequate means of relief. Second, a petitioner must demonstrate a clear and indisputable right to the relief sought. Kerr v. United States District Court, 426 U.S. 394, 403 (1976). A writ is not a substitute for an appeal. In re Kensington Intern. Ltd., 353 F.3d 211, 219 (3d Cir. 2003). Because Murphy can challenge the denial of his § 2241 petition on appeal, he has other adequate means of relief and is not entitled to a writ of mandamus.

Accordingly, we will deny the petition. Murphy's motion to stay his criminal proceedings is denied.